

Road Transport (General) Amendment (Operator Onus Offences) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Road Transport (General) Act 1999*:

- (a) to increase from 6 months to 1 year the period during which proceedings for a parking offence, camera-detected traffic light offence or camera-recorded speeding offence may be taken, and
- (b) to clarify and streamline the procedures under which a responsible person for a vehicle is required to nominate the person in charge of the vehicle in respect of a parking offence, camera-detected traffic light offence or camera-recorded speeding offence, and
- (c) to increase the penalty for a corporation that is the responsible person for a vehicle and that fails to nominate, or fails to exercise reasonable diligence to ascertain, the person in charge of the vehicle in respect of a parking offence, camera-detected traffic light offence or camera-recorded speeding offence.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Road Transport (General) Act 1999* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] inserts proposed section 43 (4A) and (4B) into the Principal Act. Proposed section 43 (4A) clarifies when a penalty notice sent to a person under section 43 (3) or (4) by post is taken to have been served. The proposed subsection provides that a penalty notice sent to a person by post is presumed to be served 7 days after it is posted. However, the person to whom the notice is sent may override that presumption by establishing it was not served during that 7-day period. **Schedule 1 [5]** is a consequential amendment that allows a certificate signed on behalf of the Commissioner of Police specifying the date on which a penalty notice was posted to a person to be admissible in proceedings and to be evidence of the matters stated in it.

Proposed section 43 (4B) specifies the matters that must be included in a statutory declaration provided under section 43 (3) or (4). A statutory declaration is provided under section 43 (3) or (4) by the responsible person for a vehicle for the purposes of ascertaining who was in charge of the vehicle at the time of the occurrence of a parking offence, camera-detected traffic light offence or camera-recorded speeding offence. Proposed section 43 (4B) provides that the statutory declaration must include the matters prescribed by the regulations. The requirement does not apply to a person served with a penalty notice or summons for a parking offence for which demerit points would not be incurred under the *Road Transport (Driver Licensing) Act 1998*. **Schedule 1 [3]** inserts proposed section 43 (7A). The proposed subsection allows an authorised officer or court to have regard to a statutory declaration in deciding whether the responsible person has exercised reasonable diligence to ascertain the name and address of the person in charge of the vehicle at the time of the offence. **Schedule 1 [4]** inserts a definition of a term used in section 43.

Schedule 1 [2] amends section 43 (5) to increase the penalty for a corporation that is the responsible person for a vehicle and that fails to nominate, or fails to exercise reasonable

diligence to ascertain, the name and address of the person in charge of the vehicle committing a parking offence, camera-detected traffic light offence or camera-recorded speeding offence.

Schedule 1 [6] inserts proposed section 47 (2) and (3). Proposed section 47 (2) extends the period during which proceedings for an operator onus offence may be commenced from the present 6 months after the date of the commission of the offence to 1 year from that date. Proposed section 47 (3) defines an operator onus offence to mean a parking offence, camera-detected traffic light offence or camera-recorded speeding offence.

Schedule 1 [7] amends clause 1 of Schedule 2 to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [8] inserts a new Part into Schedule 2. The proposed Part inserts a specific transitional provision consequent on the enactment of the proposed Act.